REMARKS

In response to the above-identified Office action, Applicant has amended claims 3, 6, 7, 13, 15-21, 28 and 30, canceled claims 26-27 and added new claims 34-35 as shown above and explained further herein below. No new matter has been introduced by way of the amendments to the existing claims or by addition of the new claims. As such, claims 1-25 and 28-35 are pending. Accordingly, Applicant requests consideration of claims 1-25 and 28-35 in view of the following remarks.

Interview Request

Applicant invites the Office to call the undersigned attorney at 425-706-0731 at its earliest convenience after considering the amendments and accompanying remarks provided herein to discuss the pending claims in view of the outstanding art rejections.

Response to Objections/Rejections

The Office objects to claims 6, 26 and 27 for containing minor informalities and requires correction by way of amendment. In particular, the Office notes that claim 6 contains a typographical error relating to the omission of a period. The Office also notes that the preamble of claim 26 recites a "process" while the preamble of claim 27 recites a "method," and asserts both claims should recite either a "process" or a "method." In response, Applicant has amended claim 6 to address the noted typographical error and cancelled claims 26-27, without disclaiming the subject matter recited therein, as shown above. No new matter has been introduced by way of the editorial amendment to claim 6. It is believed the amendment and cancellation of the above-referenced claims overcome the outstanding objections to claims 6, 26 and 27. As such, the Office is respectfully requested to withdraw the objections to claims 6, 26 and 27 in view of the foregoing amendments and cancellation of the claims.

Applicant has also amended claims 3, 13, 15, 20 and 30 to correct other typographical errors that were uncovered while preparing this response. No new matter has been added by way of these editorial amendments and entry is respectfully requested. Since all of the amendments to claims 3, 6, 13, 15, 20 and 30 were made either to address the noted objections or to correct typographical errors uncovered by the Applicant, and not for reasons of patentability relating to overcoming any prior art rejections, the scope of claims 3, 6, 13, 15, 20, 26, 27 and 30 remains the same as it was prior to these amendments.

The Office rejects claims 26 and 27 under 35 U.S.C. §112, second paragraph, as being indefinite. The Office asserts that the scope of claim 26 is unascertainable because claim 26 appears to recite a process for maintaining a product-by-process, but does not contain limitations directed to the process of maintaining the product. As discussed above, Applicant has cancelled claims 26-27. The Office is respectfully requested to withdraw this rejection in view of the cancellation of the claims.

The Office rejects claims 16-18, 19-25 and 28-33 under 35 U.S.C. § 101 asserting that the claims are directed to non-statutory subject matter. In particular, the Office asserts that the data structures recited in claims 16-18 are not embodied on a computer readable medium. The Office also asserts that claims 16-18 do not define the structural and functional interrelationships between the data structures and other subject matter recited in the claims as required under § 101. In response, Applicant has amended claims 16-18 to address the noted deficiencies by changing the claim language to recite the data structures being embodied on a machine-readable medium and to

explicitly define the implicit structural and functional interrelationships between the data structures and other subject matter recited in the claims as required by the Office.

The amendments to claims 16-18 do not introduce any new matter as support is found in the originally filed application at claims 16-18 and 26-27; FIGS. 2 and 5; page 4, line 14 through page 5, line 2; and page 7, lines 4-9; and page 8, line 15 through page 10, line 60. It is believed these claim amendments overcome the § 101 rejection as applied to claims 16-18. Since the amendments to claims 16-18 were made to explicitly define the structural and functional interrelationships that were implicit in the prior language of the claims as mentioned above, the amendments were not made for reasons of patentability relating to overcoming any prior art rejections especially since the Office did not reject claims 16-18 under 35 U.S.C. §§ 102 or 103. As such, Applicant submits that the scope of claims 16-18 remains the same as it was prior to these amendments.

The Office asserts that claims 19-25 and 28-33 recite descriptive material that may or may not be an embodiment of a computer system or may or may not be embodied on a computer readable medium so as to be executable. In response, Applicant has amended claims 19-25 and 28-33 to address the noted deficiencies by changing the claim language to explicitly recite the subject matter being embodied on a machine-readable medium as required by the Office. The amendments to claims 19-25 and 28-33 do not introduce any new matter as support is found in the originally filed application at 19-25 and 28-33; FIGS. 2 and 5; page 4, line 14 through page 5, line 2; page 10, line 62 through page 11, line 11; and page 12, line 23 through page 17, line 15.

It is believed these claim amendments overcome the § 101 rejection as applied to claims 19-25 and 28-33. Since the amendments to claims 19-25 and 28-33 were made to make explicit what was implicit in the prior language of the claims with respect to the subject matter being embodied on a machine readable medium so as to be executable as mentioned above, the amendments were not made for reasons of patentability relating to overcoming any prior art rejections. As such, Applicant submits that the scope of claims 19-25 and 28-33 remain the same as it was prior to these amendments.

The Office also asserts that claims 19-25 and 28-33 are directed to a 'machine' readable medium, which does not suffice as a 'computer' readable medium or a 'computer' program product. If the Office is asserting that the term 'computer' must be used instead of the term 'machine' in connection with a readable medium, then Applicant traverses the Office's requirement to recite a 'computer' readable medium as opposed to a 'machine' readable medium for the following reasons. The Office's Examination Guidelines for Computer-Related Inventions ("Guidelines") contained in M.P.E.P. § 2106 do not require the use of the term 'computer' as opposed to the term 'machine' in connection with executable instructions embodied on a readable medium. Furthermore, the terms 'machine' and 'computer' are equivalents of each other that may be claimed.

The Microsoft® Computer Dictionary, Fifth Edition, defines 'machine' readable as being:

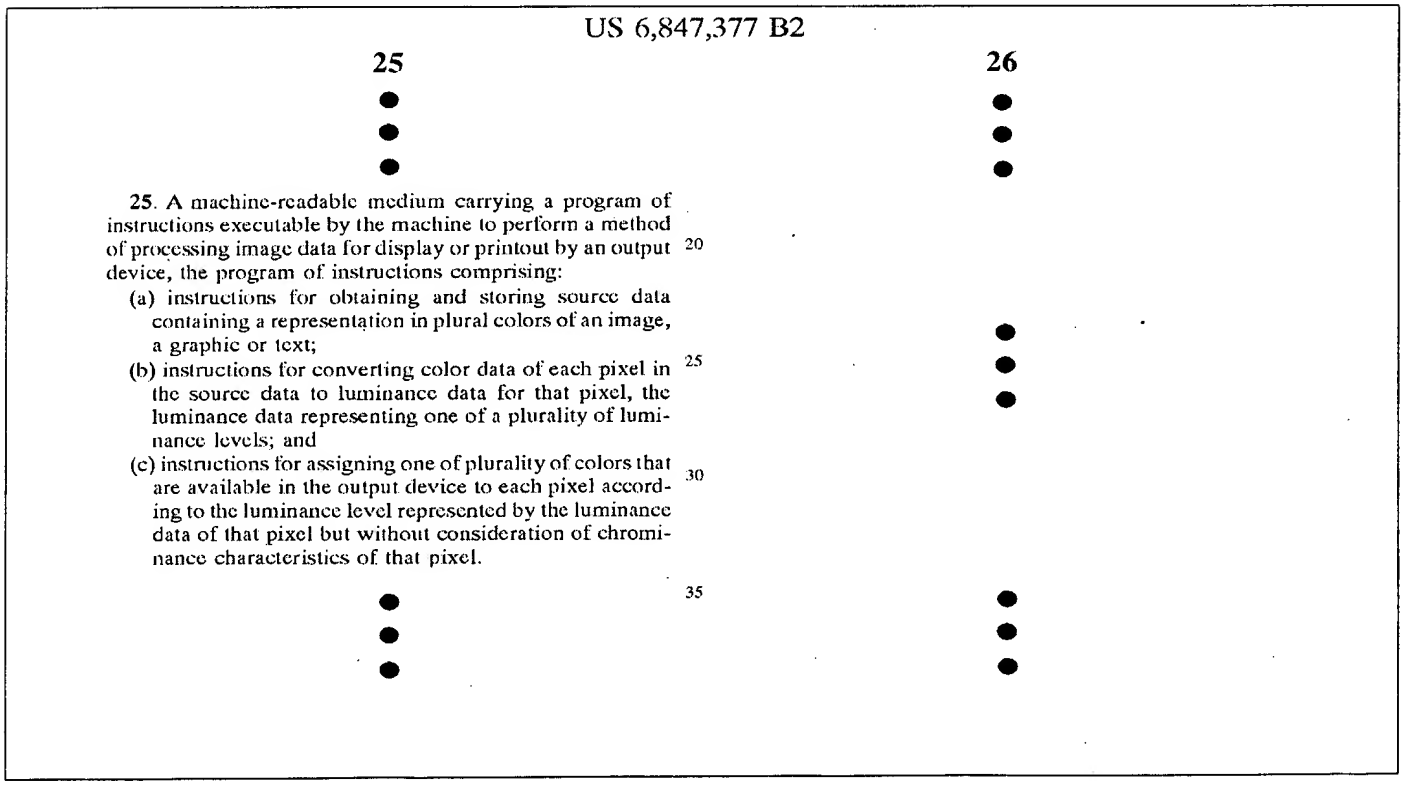
> 1. Presented in a form that a computer can interpret and use as input. For example, bar codes that can be scanned and used directly as computer input contain machine-readable

> information. 2. Coded in the binary form used by computers and stored on a suitable medium such as magnetic tape ...

Further, the Microsoft® Computer Dictionary, Fifth Edition, defines 'computer' readable as being:

> ... Of, pertaining to, or characteristic of information that can be interpreted and acted on by a computer. Two types of information are referred to as computer-readable: bar codes, magnetic tape, magnetic-ink characters, and other formats that can be scanned in some way and read as data by a computer; and machine code, the form in which instructions and data reach the computer's microprocessor.

Furthermore, the Office has issued patents bearing claims directed to 'machine' readable media. An example is provided below as U.S. Patent No. 6,847,377 for the Office's consideration:



US 6,847,377 B2

25 26

25. A machine-readable medium carrying a program of instructions executable by the machine to perform a method of processing image data for display or printout by an output device, the program of instructions comprising:

(a) instructions for obtaining and storing source data containing a representation in plural colors of an image, a graphic or text;

(b) instructions for converting color data of each pixel in the source data to luminance data for that pixel, the luminance data representing one of a plurality of luminance levels; and

(c) instructions for assigning one of plurality of colors that are available in the output device to each pixel according to the luminance level represented by the luminance data of that pixel but without consideration of chrominance characteristics of that pixel.

Since there is no prohibition under 35 U.S.C. § 101 or M.P.E.P. § 2106 against using the term 'machine' in connection with a 'readable medium' and patents

bearing claims directed to 'machine' readable media have been duly issued, the Office is respectfully requested to reconsider and withdraw the § 101 rejection as applied to claims 19-25 and 28-33 for this reason. In view of all the foregoing amendments and remarks, the Office is respectfully requested to reconsider and withdraw the rejections under 35 U.S.C. § 101 of claims 16-18, 19-25 and 28-33.

The Office has rejected claims 1-15 and 19-33 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,655,081 to Bonnell et al. ("Bonnell"). The Office asserts that Bonnell discloses the various apparatuses, methods, machine-readable media and data structures related to monitoring and/or configuring computing devices recited in the rejected claims.

Generally, the Office asserts Bonnell discloses: a management computing device including an aggregator component that accumulates information regarding multiple monitored computing devices (FIG. 1, ref. no. 10); information obtained by the aggregator component being output (col. 2, lines 43-51); the monitored computing devices enabling the aggregator component to determine the information (FIG. 1, ref. no. 14; col. 1, lines 54 - 57); the monitored computing devices implementing a schema for responding to queries by the aggregator component by providing an access point to the information (FIG. 3; col. 5, lines 16-23); a data repository maintained on the monitored computing devices that is based on the schema for providing the information to the aggregator component (col. 9, line 6 through col. 10, line 10); and/or monitoring inputs from a user interface to enable the management computer to update the data repository on the monitored computer devices (col. 2, lines 5-16; col. 13, line 63 through col. 14, line 12). Applicant has amended claims 6, 19 and 28 as shown above and submits the following remarks.

Bonnell et al. does not teach, disclose nor suggest, "schema ... providing ... information ... that satisfies the one or more ad-hoc queries," as recited in claim 1, or "schema for providing information that satisfies at least one ad-hoc query," as recited in claims 6, 19 and 28. Applicant directs the Office's attention to FIGS. 1-3 and col. 5, lines 16-23 in Bonnell, which states that script programs 40 on a network management computer system 10 and script programs 42 on server computer system 14 should both be written in a manner that would enable querying and updating knowledge databases 47 and 75 shown in FIGS. 2 and 3, respectively. Applicant submits, however, that neither of the script programs 40, 42 enable the network management computer system 10 nor the server computer system 14 to provide information that satisfies any ad-hoc queries made directly on each other.

Referring now to FIG. 8 and col. 5, lines 24-27 in Bonnell, a flowchart illustrates how resources on a server computer system 14 are discovered. As shown at step 138, the server computer system 14 sends messages to the network management computer system 10 indicating which resources were discovered at step 134. However, the messages sent by the server 14 at step 138 do not satisfy an ad-hoc query from the network management computer system 10 because the management system 10 does not make any ad-hoc queries on server 14. The messages sent to the network management computer system 10 at step 138 contain information that satisfies a static set of criteria defined in the script programs 42. Thus, the server 14 always knows what criteria need to be met in order to provide the appropriate information to the management computer system 10.

For instance, the server 14 determines which resource classes to search for at step 120 so that it can determine at step 124 which scripts from the script programs

42 need to be executed for discovering resources. At step 132, the server 14 executes the appropriate scripts from the script programs 42 to discover the resources. The script programs 42 would need to be updated before the server 14 could provide information that satisfies any other criteria needing to be met for providing the appropriate information to the management system 10 where the script programs 42 do not already have this information.

Referring now to FIG. 9 and col. 5, lines 28-30 in Bonnell, another flowchart illustrates how resources on the server computer system 14 are monitored. As shown at step 170, the server computer system 14 sends messages to the network management computer system 10 indicating the status of monitored resources. Similar to what was discussed above in connection with FIG. 8, the server 14 must already known what criteria needs to be met in order to properly indicate the status of the monitored resource to the management system 10. To do this, the server 14 interprets the script programs 42 at step 160 or executes commands from the agent's knowledge base 75 at step 152. Again, the script programs 42 or the agent's knowledge base 75 would need to be updated before the server 14 could provide the appropriate information if this information is not already present.

The Office is now directed to page 2, lines 20-24 in the above-identified application, which states that the disclosed schema enables monitored computing devices to provide information about themselves to a management computing device in response to requests from the management device. The schema also allows the information to be discovered dynamically as the situation on each of the monitored devices changes, as discussed at page 2, lines 26-28. Thus, the monitored devices can provide information

responsive to ad-hoc queries from the management computing device whereas the system in Bonnell can only provide information responsive to static queries defined in either the script programs 42 or the agent's knowledge base 75 as discussed above in connection with Bonnell. In view of the foregoing amendment and remarks, the Office is respectfully requested to withdraw the rejection of claims 1, 6, 19 and 28 under §102(b).

Since claims 2-5 depend from and include the subject matter recited in claim 1, claims 7-15 depend from and include the subject matter recited in claim 6, claims 20-25 depend from and include the subject matter recited in claim 19, and claims 29-33 depend from and include the subject matter recited in claim 28, they are patentable in the same manner as claims 1, 6, 19 and 28 as well as other reasons that have not been discussed herein.

Applicant submits newly added claims 34-35 are patentable at least for the reasons discussed above in connection with claims 1, 6, 19 and 28 as well as any other reasons that have not been discussed herein. These newly added claims do not introduce any new matter as support is found in the originally filed application at claims 1-33; FIGS. 4-5; page 10, line 62 through page 11, line 11; and page 12, line 23 through page 17, line 15. Claim 34 recites subject matter related to the aggregator 224 on the management server 12 illustrated in FIGS. 1 and 4 and claim 35 recites subject matter related to the schema 212 on a server node 14 illustrated in FIGS. 1, 4 and 5, at least a portion of which have been considered by the Office in connection with the subject matter recited in one or more of claims 1, 6, 19 and 28.

In view of all the foregoing, it is submitted that this case is in condition for allowance and such allowance is earnestly solicited. In the event that there are any

outstanding matters remaining in the above-identified application, the Office is invited to contact the undersigned to discuss this application.

Respectfully submitted,

MICROSOFT CORPORATION

Date: February 28, 2005

By: _____

John Campa
Registration No. 49,014
Direct Phone No. (425) 706-0731

CERTIFICATE OF MAILING OR TRANSMISSION
(Under 37 CFR § 1.8(a))

I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; or

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703)

February 28, 2005
Date

_____
Signature

John Campa
Printed Name